

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re: Guidant Corp. Implantable Defibrillators
Products Liability Litigation

MDL No. 05-1708 (DWF/AJB)

This Document Relates to All Actions

PRETRIAL ORDER NO. 4

ORDER AND MEMORANDUM

This matter is before the Court pursuant to the request of Defendant Guidant to withdraw Guidant's All Writs motion against Texas attorney Robert Hilliard as it relates to the cases styled *Motal* and *Hinojosa*.¹ The Court has had no contact with Mr. Hilliard. However, counsel for Guidant has represented to the Court that the parties have reached a stipulation whereby Defendant Guidant is withdrawing, at this time, Guidant's All Writs motion.

Based upon the presentations of counsel, the request and stipulation before the Court, and the Court being otherwise duly advised, the Court hereby enters the following:

ORDER

1. Pursuant to the stipulation of the above-named parties, Defendant Guidant's All Writs motion against Texas attorney Robert Hilliard is **WITHDRAWN**.

Dated: January 26, 2006

s/Donovan W. Frank
DONOVAN W. FRANK
Judge of United States District Court

¹ On December 21, 2005, the Texas state court consolidated the case captioned *Louis E. Motal v. Guidant Corporation, et al.*, Case No. 05-3377-C, pending in the District Court of Nueces County, Texas, with the case captioned *Beatrice O. Hinojosa v. Guidant Corporation, et al.*, Case No. 05-3658-A, pending in the District Court of Nueces County, Texas.

MEMORANDUM

The Court approves and acknowledges the stipulation of the parties to withdraw the All Writs motion. The Court would observe that one of the most important aspects of an MDL case is the coordination of cases between the state and federal courts of this country. The Court is especially sensitive to this issue, having sat on the state court 14 years prior to coming to the federal bench.

Minimizing disruption to a MDL case and promoting coordination and cooperation between state and federal cases always serves the interests of justice and the interests of the individual parties in each case. Consequently, the Court always retains inherent authority to exercise its jurisdiction if there is a profound lack of cooperation and coordination between the state and federal cases that results in substantial disruption to a MDL case. Such disruption almost always prejudices individual plaintiffs in the state and federal cases, as well as the defendants.

The Court will be reaching out to all state judges and lawyers in the next few weeks as the Court sets a very specific schedule for the MDL case before it. The Court is hopeful that it will not be necessary for it to exercise its inherent authority in an effort to serve the interests of all of the parties concerned, and to expeditiously move this case to a fair and just conclusion, whatever that may be. In setting a schedule for this case, the Court is mindful of the balance it must keep to serve the interests of justice and the parties. On one hand, the Court must ensure that these cases proceed ahead expeditiously by the Court's efforts to coordinate discovery and move toward trial. Yet on the other hand, the Court must ensure that the cases are not brought to trial in too hasty a manner, leading to a verdict for either side that does not represent a fair attempt at discovery and thus does not characterize the essence of the lawsuits.

D.W.F.

